

I am writing on behalf of the Soho Society to confirm its position in relation to the application for The Court, 9 Kingly Street, W1B 5PH.

I am not able to attend the hearing on Thursday 11th May. Marina Tempia and Wendy Hardcastle from the Soho Society will be in attendance.

Background

The Soho Society's representation is at pp42-47 of the LSC Report. It is made on the basis of 'prevention of public nuisance' and 'prevention of crime and disorder'. It includes the results of a 'Sleep Survey' carried out by the Soho Society.

The application is in two parts, with part B contingent on the grant of part A.

Part A:

1. To remove conditions 10 - 12 (Rules of Management), 20 & 21 (membership), and 13 -17 and 22 (various), and replace them with a suite of modern and appropriate model conditions.

2. To increase the capacity to 220 (From 150).

3. To increase the permitted hours on Saturdays to 01:00 and add licensable activities on Sundays until 23:00;

4. To update the layout of the premises in accordance with the enclosed plans, including changes to fixed seating, increase in WC provision and addition of secondary means of escape.

Part B:

5. Should the application as above be granted in accordance with this Operating Schedule and Part A, the hours of licensable activities on a Monday to Friday would be reduced to 01:00.

The current licence does not permit licensable activities beyond midnight on a Saturday (this is of course still to the full extent of 'core hours').

We understand that the applicant has stated that (p28): *"The removal and amendment of the conditions, together with the decrease in hours therefore provides exceptional circumstances and promotes the licensing objectives."*

We respectfully disagree. The proposed reduction is more than counterbalanced by the removal of certain conditions (particularly the condition which at present prevents vertical drinking after 11pm), the increase in hours on Saturday and Sunday, and the increase in capacity.

Removal of conditions

The removal of the following conditions would impact on the promotion of the licensing objectives.

- *The number of persons accommodated at any one time (excluding staff) shall not exceed the following: Ground floor of Nos. 9 and 10 Kingly Street - 30. Basement of No. 9 Kingly Street and Nos. 12/15 Kingly Court - 120.*
- *The sale of alcohol must be ancillary to the use of the premises for music and dancing and substantial refreshment.*

- *The supply of alcohol at the premises shall only be sold for consumption by members and their bona fide guests (not exceeding 4 guests per member). No person shall be admitted to membership of the private club or be entitled to take advantage of any of the privileges of membership without an interval of at least 48 hours between their nomination or application for membership and their admission.*
- *A list of the names and addresses of members shall be kept on the premises at all times together with a book showing the names and dates of attendance of any guests introduced by members. Both the list and the book shall be produced on demand for inspection by the police or an authorised officer of the Council.*
- *After 23:00 hours, the supply of alcohol at the premises shall only be to a person seated at a table.*

Increase in capacity

The increase in capacity proposed is from 150 to 220 i.e. an increase of 47%. This will result in more customers leaving the premises at times when crime levels in Soho are high. The fact that this is at an earlier terminal hour on Mon-Fri must be viewed in the context of i) the later hour on a Saturday; and ii) a detailed analysis of the levels of crime at particular times (see pp38-39 and below).

Increase in hours on Saturday (from midnight to 1am) and on Sunday (from 10.30pm to 11pm)

Although this is obviously set against a decrease in hours on other nights of the week, the further context is that Saturday night is a busy weekend night and Sunday is a night when (as the Policy acknowledges) residents are entitled to some respite.

Update layout

There is no objection to this.

Policy approach to reduction in hours

The applicant contends (p28) that the *‘existing and proposed use fall within policy PB1(c) of the Statement of Licensing Policy. Furthermore, they have stated: “The removal and amendment of the conditions, together with the decrease in hours therefore provides exceptional circumstances and promotes the licensing objectives.’*

Policy PB1 states (so far as is relevant) that:

B. It is the Licensing Authority’s policy to refuse applications within the West End Cumulative Impact Zone other than:

1. Applications to vary the existing licence hours within the council’s Core Hours Policy HRS1.

2. Applications that seek to vary the existing licence so as to reduce the overall capacity of the premises.

C. The applications referred to in Clause B1 and B2 will generally be granted subject to:

1. The application meeting the requirements of policies CD1, PS1, PN1 and CH1, and/or,

3. The application and operation of the venue continuing to meet the definition of a Public House or Bar in Clause D.

Re: PB1B, the application neither varies the 'existing licence hours' within the Council's 'core hours' policy, nor reduces the overall capacity of the premises (in fact, the application proposes a substantial increase).

PB1C therefore does not apply. Accordingly, the applicant is required to demonstrate a 'genuine exception' to the policy to refuse set out at PB1.

Even if PB1C did apply, it must still be demonstrated that the application meets the requirements of *inter alia* CD1 and PN1. It is contended that it does not because although there is a reduction in hours proposed, the increase in capacity, the increase in hours on a Saturday night, and removal of certain conditions results in a net disbenefit.

The Metropolitan Police are of course one of the statutory consultees. The Met Police object to the increase in capacity and removal of a condition, despite the reduction in hours. They have produced crime statistics (p38-39) which clearly show i) high crime levels in the West End; and ii) distinct and significant 'spikes' in crime levels between 10pm and up to 4am on Thursdays Fridays and Saturdays for all types of crime, **with the highest levels being recorded on a Saturday night** and, crucially, **little discernible difference between levels at 1am and 3am.**

Planning permission

Planning and licensing are separate and distinct regimes with their own considerations. The Statement of Licensing Policy recognises this (our emphasis):

*B23. Planning remains the regime that is directed at the development of premises and their overall use. Licensing is the regime that is directed at individual licensable activities and their management and their impact on the licensing objectives. **The granting of a planning permission for premises, or finding that a premises enjoys a lawful use, does not constrain the council as Licensing Authority from considering in detail the licensable activities, their management and conditions appropriate to them.***

The applicant has submitted a copy of the planning permission ref: 23/ 00990/FULL. Presumably this is submitted to show that the Planning Authority has deemed the hours and capacity acceptable in land use terms.

The delegated report for the planning application states that for land use, '*Taking into account the previous use, as well as the character of the area, which features a mixture of uses including drinking establishments and restaurants, the bar/drinking establishment use is acceptable and is not considered to lead to the overconcentration of drinking establishments within the area.*'

The Soho Society is very surprised by this conclusion from the Planning Authority but in any event the logic which appears to have been used is the direct opposite of the logic which underpins the Council's Statement of Licensing Policy, in particular the 'cumulative impact' policy which recognises that drink-led premises are the main contributors to cumulative impact and that a concentration of such establishments is inimical to the aims of the Council as Licensing Authority.

Whilst, again, it might be said that there is already an established use at the premises to a later terminal hour than proposed now, this does not factor in the increase in capacity, the increase in hours on a Saturday and the removal of certain conditions.

Perhaps most importantly, the Met Police were not a consultee on the planning application.

Conclusion

Clearly, the application must be looked at 'in the round' for a consideration of whether the decrease in hours Mon-Fri constitutes an exception to policy when set in the face of:

- i) Increase in capacity of 47%
- ii) Increase in hours on a Saturday night
- iii) The crime stats produced by the police particularly for Saturday nights
- iv) The removal of conditions, particularly that which requires customers to be seated after 11pm.

I should be grateful if this correspondence could be included in the addition documents bundle.